

Message Text

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ACTION NEA-12

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AMEMBASSY KATHMANDU

AMEMBASSY LONDON

AMCONSUL BOMBAY

AMCONSUL CALCUTTA

AMCONSUL MADRAS

LIMITED OFFICIAL USE NEW DELHI 4853

E. O. 11652: N/ A

TAGS: PGOV IN

SUBJECT: SUPREME COURT HOLDS PARLIAMENT MAY ABRIDGE FUNDAMENTAL
INDIAN CONSTITUTIONAL RIGHTS.

1. IN SPLIT DECISION (7-6), BY LARGEST GROUP OF JUDGES EVER TO
HEAR A CONSTITUTIONAL CASE (13), IN WHICH THERE WERE MORE SEPARATE
JUDGMENTS THAN IN ANY CASE IN HISTORY OF INDIAN SUPREME COURT (11),
THE COURT RULED APRIL 24 THAT CONSTITUTIONAL AMENDMENTS 24 AND 25
WERE VALID AND LEGITIMATELY ENABLED PARLIAMENT TO ABRIDGE THE
FUNDAMENTAL RIGHTS OUTLINED IN THE INDIAN CONSTITUTION. DECISION
ALSO HELD, HOWEVER, THAT (A) THIS RIGHT COULD NOT BE DELEGATED BY
THE PARLIAMENT TO THE SEPARATE INDIAN STATES AND (B) THE COMPEN-
SATION REQUIRED IN SEIZING PRIVATE PROPERTY COULD NOT BE " ARBITRARY,
ILLUSORY, OR SHOCKING TO THE JUDICIAL CONSCIENCE OR THE CONSCIENCE
OF MANKIND." PRESENT DECISION REVERSES PREVIOUS ONE IN 1966 FOR-
BIDDING PARLIAMENT FROM ABRIDGING FUNDAMENTAL CONSTITUTIONAL
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RIGHTS.

2. WHILE RULING THAT PARLIAMENT COULD NOT ALTER THE STRUCTURE OR
FRAMEWORK OF THE CONSTITUTION, OR TO LEGISLATE AWAY ESSENCE OF THE
FUNDAMENTAL RIGHTS, THE COURT HELD THAT REASONABLE ABRIDGEMENT
OF THESE RIGHTS " IN THE PATE THAT THE THREE
PLANES HAD PASSED THROUGH LOURENCO MARQUES EN ROUTE SALIS-
BURY; BEIRA SEEMED GREATER POSSIBILITY. HE HAD HEARD, BUT
COULD NOT CONFIRM, PLANES REPAINTED WITH RHODESIAN COLORS IN
LISBON AND THAT RHODESIAN CREW TOOK CHARGE THERE. SEEMS MORE
LIKELY PLANES FLEW NORMAL ROUTE-- I. E., LISBON TO LUANDA AND
THEN DIRECT TO SALISBURY, RATHER THAN ON LENGTHY DETOUR
THROUGH SOUTH AFRICA AND LOURENCO MARQUES, OR BEIRA. VAN OSS
UNQUOTE ROGERS

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*** Current Classification *** LIMITED OFFICIAL USE

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